IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 15262 of 2004

Between:

M/s. JCB India Limited, RTC Colony, L.B. Nagar, Hyderabad,
Rep. by its Regional Manager, Mr. K.J. B. Achari.

..... PETITIONER

AND

1 The Assistant Commissioner (CT (LTU), Hyderabad Rural Division, Hyderabad.
2 The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.
3 The Additional Commissioner (CT), Legal, Andhra Pradesh, Nampally, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or order or direction quashing the B demand notice dated 21-8-2004 issued by the 1st Respondent restricting the time for payment of the balance disputed tax of Rs. 47, 12,601 to 3 days as illegal, arbitrary and contrary to Section 16 of the APGST Act and also restrain the 1st respondent from taking any coercive steps for collection of the balance disputed tax of Rs. 47,12,601 for the assessment year 2003-04 (Provisional)till disposal of the appeal filed by the petitioner before Sales Tax Appellate Tribunal on 24-8-2004.

Counsel for the Petitioner:MR.P.SRINIVASA REDDY, Advocate.

Counsel for the Respondents : GP FOR COMMERCIAL TAXES.

The Court at the stage of admission, made the following :

ORDER : (per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent the Writ Petition is disposed of at this stage.

There was a dispute regarding payment of balance tax of Rs.1,76,54,142/-. An appeal was filed against the assessment order and during this period, the petitioner paid certain amounts and got some relief from the 1st appellate authority. During the period of pendency of the 1st appeal, petitioner has paid more than Rupees Fifty lakhs. On payment of this amount and on getting some relief from the 1st appellate authority, the balance has gone down to Rupees Forty Seven lakhs and odd and 2nd appeal is pending. Pending the 2nd appeal, stay had been rejected, therefore the petitioner has approached this Court.

We feel that the interest of justice would be met if stay is granted subject to the condition that petitioner deposits an amount of Rupees Seven lakhs within a period of four weeks. Therefore, we set aside the order of the authority and direct that the petitioner shall deposit Rupees Seven lakhs within a period of four weeks. For four weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

26th August, 2004.

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ajr (P.S.NARAYANA,J)

To

1 The Assistant Commissioner (CT (LTU), Hyderabad Rural Division,

Hyderabad.
2 The Appellate Deputy Commissioner (CT), Hyderabad Rural Division,

Hyderabad.
3 The Additional Commissioner (CT), Legal, Andhra Pradesh, Nampally,

Hyderabad.

4 Two C.Cs. to the GP for Commercial Taxes, High Court buildings,

Hyderabad (O.U.T).

5 Two C.D. copies.